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Human Rights Council
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Agenda item 4
Human rights situations that require the Council's attention

Djibouti,* Somalia* draft resolution

35/... Situation of human rights in Eritrea

The Human Rights Council,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights and other relevant international human rights instruments,

Recalling resolution 91 and decisions 250/2002 and 275/2003 of the African Commission on Human and Peoples' Rights,

Recalling also its resolutions 5/1, on institution-building of the Human Rights Council, and 5/2, on the Code of Conduct for Special Procedures Mandate Holders of the Council, both of 18 June 2007, and stressing that the mandate holder shall discharge his or her duties in accordance with those resolutions and the annexes thereto,

Recalling further its resolutions 20/20 of 6 July 2012, 23/21 of 14 June 2013, 26/24 of 27 June 2014, 29/18 of 2 July 2015 and 32/24 of 1 July 2016,

Noting that Eritrea is a State party to international and regional human rights instruments, and urging it to comply with its international obligations and its human rights commitments therefrom,

Noting also the participation of Eritrea in the second cycle of the universal periodic review and its acceptance of 92 recommendations, and its programme with the United Nations Development Programme to implement those recommendations, and calling upon the Government of Eritrea to take immediate concrete measures to implement those recommendations,

Welcoming the action taken by the Government of Eritrea to protect and promote the economic and social rights of its people, including through the early achievement of the Millennium Development Goals and its commitment to the Sustainable Development Goals,

* State not a member of the Human Rights Council.

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Welcoming also the commitment of the Government of Eritrea to the promotion of gender equality, including through its programmes to end female genital mutilation and its campaign to end child, early and forced marriage,

Regretting the lack of cooperation by the Government of Eritrea with the commission of inquiry on human rights in Eritrea and continued lack of cooperation with the Special Rapporteur on the situation of human rights in Eritrea, including the denial of access to the country,

Recalling the reports of the commission of inquiry, and continuing to express its deep concern at the findings contained therein regarding past and ongoing human rights violations and abuses, such as enslavement, arbitrary detention, enforced disappearance, torture, other inhumane acts, persecution, rape and murder, and that there are reasonable grounds to believe that crimes against humanity have been committed in Eritrea since 1991,

Emphasizing that every citizen has the right to take part in the conduct of public affairs of his or her country, directly or through freely chosen representatives, and expressing grave concern that national elections in Eritrea have not been held since 1993 and that the Constitution of 1997 has never been implemented,

Noting with deep concern the findings of the commission of inquiry regarding crimes involving human rights violations and abuses, committed by government and ruling party officials, military commanders and members of the National Security Office,

Noting the identification by the commission of inquiry of individual suspects and careful maintenance of relevant information that may assist future accountability efforts,

Noting with grave concern the continued use by the Government of Eritrea of arbitrary arrest and detention, including incommunicado detention in extremely harsh and life-threatening conditions, of persons suspected of evasion of national service, attempting to flee the country or unable to produce identity documents, exercising the right to freedom of religion, or freedom of opinion and expression, including those perceived as critical of the Government, and of those who return to the country after having fled national service, as well as those detained in the aftermath of the attempt to take over on 21 January 2013 the building of the Ministry of Information,

Welcoming the release by the Government of Eritrea of 4 Djiboutian prisoners of war following the mediation of the Government of Qatar, on 18 March 2016, while recalling that 13 other Djiboutian prisoners of war are still detained in Eritrea,

Expressing grave concern at the widespread use of indefinite conscription into national/military service, a system that constitutes forced labour, including in a wide range of economic activities, and the reported forced conscription of children into military service, and regretting that the fear and experience of a lengthy national service causes large numbers of Eritreans to leave the country,

Deeply concerned that the situation of human rights in Eritrea is a primary factor in the large number of Eritreans leaving their country, often facing risks of abduction, abhorrent physical and mental abuse and other ill-treatment on their migration path, including abuses by smugglers and human traffickers, while welcoming the participation of the Government of Eritrea in multilateral forums to discuss counter-trafficking efforts,

Noting with deep concern the findings of the commission of inquiry regarding persecution on both religious and ethnic grounds, including of members of non-authorized religious denominations,

1. *Recalls* the report of the commission of inquiry on human rights in Eritrea,[1] stresses the importance of the work of the commission of inquiry and the information it has collected in support of future accountability, and continues to urge the Government of Eritrea to take immediate and concrete steps to implement its recommendations;

2. *Welcomes with appreciation* the work of the Special Rapporteur on the situation of human rights in Eritrea,[2] stresses its deep concern at the ongoing grave violations and abuses outlined therein, and urges the Government of Eritrea to take immediate and concrete steps to implement the recommendations;

3. *Also welcomes* the oral update of the Special Rapporteur to the Human Rights Council at its thirty-fourth session;

4. *Condemns in the strongest terms* the reported systematic, widespread and gross human rights violations and abuses that have been and are being committed by the Government of Eritrea in a climate of generalized impunity;

5. *Condemns in particular* the arbitrary detention, enforced disappearances, torture, killing, sexual violence, discrimination on the basis of religion and ethnicity and reprisals for the alleged conduct of family members, and the human rights violations and abuses in the context of indefinite national service, including those involving forced labour, the forced military conscription of children and sexual violence;

6. *Expresses its deep concern* at the severe restrictions on the right to freedom to hold opinions without interference, freedom of expression, including the freedom to seek, receive and impart information, liberty of movement, freedom of thought, conscience and religion, and freedom of peaceful assembly and association, and at the detention of journalists, human rights defenders, political actors, religious leaders and practitioners in Eritrea;

7. *Reiterates* that all those responsible for past and present human rights violations and abuses in Eritrea must be held accountable;

8. *Reiterates its calls upon* the Government of Eritrea:

(*a*) To end its use of arbitrary detention of persons in Eritrea, and to end the use of torture or other cruel, inhumane and degrading treatment or punishment;

(*b*) To account for all those arbitrarily detained, including members of the G-15 reform group, journalists, political prisoners and those detained in the aftermath of the attempted takeover on 21 January 2013 of the building housing the Ministry of Information, and either to release them or to ensure that they are given a fair and transparent trial without any further undue delay and with full respect for minimum fair-trial guarantees;

(*c*) To put an end to the system of indefinite national service by demobilizing national service conscripts who have completed their mandatory 18 months of service, as announced by the Government of Eritrea, and by effectively ending the practice of engaging them in forced labour after such a period, to provide for conscientious objection to military service, and to end the compulsory practice of all children undertaking the final year of schooling in a military training camp;

(*d*) To respect everyone's right to freedom of expression and to freedom of thought, conscience and religion or belief, and the right to freedom of peaceful assembly and association;

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[1] A/HRC/32/47.

[2] See A/HRC/35/39.

(*e*) To ensure free, fair and equal access to an independent and impartial court to challenge the lawfulness of any detention, and to improve prison conditions, including by prohibiting the use of underground cells and shipping containers to hold prisoners, ending the use of secret detention centres and the practice of incommunicado detention, allowing regular access to prisoners for relatives, legal advocates and independent monitoring mechanisms, and to permit prompt and regular unhindered access to medical care;

(*f*) To end the practice of forcing citizens to participate in the militia;

(*g*) To investigate promptly all allegations of extrajudicial killings, torture and other cruel, inhumane and degrading treatment or punishment, rape and sexual abuse within the national service, and to bring perpetrators to justice;

(*h*) To end the practice of shooting to wound or kill Eritrean citizens attempting to cross the border to flee the country;

(*i*) To enhance further the promotion and protection of women's rights, including by taking additional measures to combat harmful practices, such as child, early and forced marriage and female genital mutilation;

(*j*) To take immediate concrete measures to implement the recommendations made during its second universal periodic review, to report on progress made and to cooperate fully with the Human Rights Council and the universal periodic review during its third cycle;

(*k*) To end "guilt-by-association" policies that target family members of those who evade national service, seek to flee Eritrea or commit any other acts alleged to be crimes;

(*l*) To ensure the right to form and join political parties and guarantee the right and opportunity of all citizens to take part at all levels in the political process and to vote and be elected in free, fair and transparent democratic elections, guaranteeing the free expression of the will of the people;

(*m*) To further strengthen cooperation with the Office of the United Nations High Commissioner for Human Rights in accordance with its international human rights obligations;

(*n*) To allow unhindered access to the country to further missions by the Office of the High Commissioner, the human rights treaty bodies and all mechanisms of the Human Rights Council, and to cooperate with all international and regional human rights mechanisms;

(*o*) To provide the Office of the High Commissioner with all relevant information on the identity, safety, well-being and whereabouts of all detained persons and persons missing in action, including members of the G-15, journalists, those detained in the aftermath of the attempted takeover on 21 January 2013 of the building of the Ministry of Information and the 13 Djiboutian combatants still detained;

(*p*) To work to finalize and implement the Constitution of 1997 in consultation with all relevant stakeholders;

9. *Encourages* States in which witnesses reside to protect those who have cooperated with the commission of inquiry and the Special Rapporteur, and in particular to protect them from reprisals;

10. *Welcomes* the Special Rapporteur's preliminary contact with the African Union, and takes note of her recommendations for a regional accountability mechanism, given the assertion by the commission of inquiry that neither a hybrid tribunal nor a truth commission would be a viable option in the current circumstances;

11. *Urges* Eritrea to make available information pertaining to the remaining Djiboutian prisoners of war missing since the clashes of 10 to 12 June 2008 so that those concerned may ascertain the presence and condition of Djiboutian prisoners of war;

12. *Decides* to extend the mandate of the Special Rapporteur on the situation of human rights in Eritrea for a period of one year, and requests the mandate holder to continue and to strengthen the follow-up on the implementation of the recommendations of the commission of inquiry and her recommendations in her report, on the situation of human rights in Eritrea, to submit and present a written report to the Human Rights Council at its thirty-eighth session, and to address and engage in an interactive dialogue with the General Assembly at its seventy-second session;

13. *Decides* to hold an enhanced interactive dialogue on the human rights situation in Eritrea at its thirty-seventh session, with the participation of the Special Rapporteur, the Office of the High Commissioner, civil society and other relevant stakeholders;

14. *Calls upon* the Government of Eritrea to consider the establishment of a presence of the Office of the High Commissioner in Eritrea with a holistic mandate to protect, promote and monitor human rights with unhindered access;

15. *Calls upon* the Government of Eritrea to cooperate fully with the Special Rapporteur, to permit the Special Rapporteur and her staff members unrestricted access to visit the country, to give due consideration to the recommendations contained in the reports of the Special Rapporteur, and to provide her with the information necessary for the fulfilment of her mandate, and underlines the importance for all States to lend their support to the Special Rapporteur for the discharge of her mandate;

16. *Requests* the Office of the High Commissioner to continue to enhance engagement in improving the situation of human rights in Eritrea, and to present an oral update to the Human Rights Council at its thirty-seventh session on progress made in the cooperation between Eritrea and the Office, and on its impact on the situation of human rights in Eritrea;

17. *Calls upon* the Government of Eritrea to immediately stop the practice of demanding that Eritreans in the diaspora sign the B4/4.2 form (the so-called "regret form") in which they accept responsibility for any crime, if committed, before leaving the country, in order to be entitled to consular services from Eritrean diplomatic missions;

18. *Also calls upon* the Government of Eritrea to stop the use of extortion, threats of violence, fraud and other illicit means to collect taxes outside Eritrea from its nationals or other individuals of Eritrean origin and to abstain from such practices;

19. *Urges* the international community to strengthen efforts and collaboration to ensure the protection of those fleeing from Eritrea, in particular unaccompanied children;

20. *Encourages* business enterprises to carry out appropriate human rights due diligence in order to identify, prevent, mitigate and account for how they address their human rights impact, including with respect to allegations of use of conscript labour;

21. *Encourages* Member States to increase attention and, if feasible, resources to improve the situation of human rights in Eritrea by strengthening engagement with the Government of Eritrea;

22. *Requests* the Secretary-General to provide the Special Rapporteur with all information and the resources necessary to fulfil her mandate;

23. *Requests* the General Assembly to submit the report and the oral updates of the commission of inquiry to all relevant organs of the United Nations for consideration and appropriate action;

24. *Reiterates its strong encouragement* to the African Union to follow up on the report and recommendations of the commission of inquiry and the update on human rights in Eritrea by establishing an investigation, supported by the international community, with a view to examining and bringing to justice those responsible for crimes involving violations and abuses of human rights identified by the commission of inquiry, including any that may amount to a crime against humanity;

25. *Decides* to remain seized of the matter.